

(2005) 12 PAT CK 0014

In the Patna High Court

Case No : Criminal Miscellaneous No. 26810 of 2002

Kapildeo Singh and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 09-12-2005

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 379
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 14, 3, 4

Citation : (2006) 1 PLJR 723

Hon'ble Judges : Rekha Kumari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rekha Kumari, J.—This is an application u/s 482 of the Code of Criminal Procedure for quashing the entire proceeding of Complaint Case No. 115(C)/2000 pending in the court of S.D.J.M., Barh. Heard.

2. Learned counsel for the petitioners submitted that in this case no offence under sections 3 / 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out, but cognizance has been taken of these offences. The A.C.J.M. or S.D.J.M. is not competent to take cognizance under these offences as u/s 14 of the Act the case is triable by the Sessions Court. He further submitted that the land in question was not in possession of the complainant (O.P. No. 2) and was in possession of the petitioners as they had purchased the same and that the case is false and has been filed only to harass the petitioners.

3. The complaint petition shows that there are allegations against the petitioners, but they forcibly took away wheat crops from the field of the complainant and on protest abused and insulted him with an intent to humiliate him, who was a member of Scheduled Caste and they also resorted to firing. Therefore, the

allegations make out offences under sections 147, 379I.P.C., 27 of the Arms Act and Section 3 of the S.C. & S.T. (Prevention of Atrocities) Act for which the learned S.D.J.M. by the order dated 11.7.2001 has summoned the petitioners to face trial. It, of course, appears that prior to the above order, the learned A.C.J.M., Barh had taken cognizance in the case. Section 14 of the Act also provides that the trial for the offences under the Act would be held in the Sessions Court. The Act, however, nowhere provides that the cognizance for the offences under the Act would be taken by a Sessions Court. Therefore, though the trial for offences under the Act would be held in a Sessions Court, cognizance by the A.C.J.M. was not barred. There is no infirmity in this regard, of course, no offence u/s 4 of the Act is made out on the allegations, but for this the entire proceeding cannot be quashed. The petitioners may agitate about it at the time of framing of charge.

4. As regards the claim of the petitioners that the land was in their possession, it is their defence and defence of the accused cannot be considered at the time of taking cognizance, or at the time of issuing of summons. So, this is also no ground to quash the proceedings of the case. In the result, this application is dismissed.